

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

IRVING BERRY,

Plaintiff,

v.

STEVE PFISTER, et al.,

Defendants.

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No. 4:21-CV-903 AGF

**MEMORANDUM AND ORDER**

This matter is before the Court upon its own motion. Self-represented plaintiff Irving Berry's civil complaint for money damages and injunctive relief was received by the Court for filing on July 22, 2021. However, plaintiff neither paid the \$402 court filing fee nor filed a motion to proceed *in forma pauperis* (or without prepayment of fees or costs), along with a certified copy of his account statement. *See* 28 U.S.C. § 1915(a).<sup>1</sup> As such, the Court will allow plaintiff twenty-one (21) days to either pay the full filing fee or file his motion to proceed *in forma pauperis* and account statement. His failure to do so in a timely manner will result in a dismissal of this action, without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk is directed to mail to plaintiff a copy of the motion to proceed *in forma pauperis* form for prisoners.

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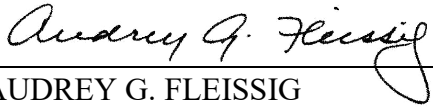
<sup>1</sup>The Court notes that plaintiff has accumulated "three strikes" pursuant to 28 U.S.C. § 1915(g) by having three actions dismissed as frivolous, malicious and/or for failure to state a claim upon which relief may be granted. Thus, if he seeks leave to proceed *in forma pauperis* in this action, his request will likely be denied unless he can show he was under imminent danger of serious physical injury at the time of the filing of the complaint. *See Berry v. Cline*, No. 89-4146 (July 17, 1989); *Berry v. St. Louis Circuit Court*, No. 91-0248 (April 26, 1991); *Berry v. Mitchell*, No. 92-0071 (March 11, 1992). These cases were collected and mentioned in *Berry v. Schiro*, No. 00-4183 (W.D.Mo. November 6, 2000).

**IT IS FURTHER ORDERED** that plaintiff must either pay the \$402 filing fee **or** submit a motion to proceed *in forma pauperis* within twenty-one (21) days of the date of this Order.

**IT IS FURTHER ORDERED** that if plaintiff files a motion to proceed *in forma pauperis*, he must also file a certified copy of his prison account statement for the six-month period preceding the filing of the complaint.

**IT IS FINALLY ORDERED** that if plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice. If the case is dismissed for non-compliance with this Order, the dismissal will **not** count as a “strike” under 28 U.S.C. § 1915(g).

Dated this 23rd day of July, 2021.

  
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AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE